

**IOWA BOARD OF MEDICINE  
REGULARLY SCHEDULED MEETING: February 4-5, 2016**

**A G E N D A**<sup>1, 2, 3, 4, 5</sup>

**BOARD MEMBERS:** Hamed Tewfik, M.D., Chairperson; Allison Schoenfelder, M.D., Vice Chairperson; Ronald Cheney, D.O., Secretary; Julie Carmody, M.D.; Diane Clark; Diane Cortese; Mary Jo Romanco; Kyle Ulveling, M.D.; Charles Wadle, D.O.

**THURSDAY, FEBRUARY 4, 2016**

7:30 a.m.                    **EXECUTIVE COMMITTEE** – Medical Conference Room B  
Chair Tewfik, Cheney, Clark, Schoenfelder

8:00 a.m.                    **SCREENING COMMITTEE** – Board Room  
Chair Carmody, Cortese, Romanco, Ulveling, Wadle

9:00 a.m.                    **MONITORING COMMITTEE** – Board Room  
Chair Schoenfelder, Cheney, Ulveling, Wadle

9:00 a.m.                    **LICENSURE COMMITTEE** - Medical Conference Room B  
Chair Clark, Carmody, Cortese, Romanco, Tewfik

**OPEN SESSION** - Board Room  
Chair Tewfik, Carmody, Cheney, Clark, Cortese, Romanco, Schoenfelder,  
Ulveling, Wadle

**CLOSED SESSION**<sup>1</sup> - Board Room  
Chair Tewfik, Carmody, Cheney, Clark, Cortese, Romanco, Schoenfelder,  
Ulveling, Wadle

**A. Iowa Physician Health Committee**

**1. Notices of non-compliance**

**B. Committee Reports**

- 1. Screening**
- 2. Monitoring**
- 3. Licensure**

**C. Review of closed minutes**

- 1. December 10-11, 2015, Board Meeting**
- 2. January 14, 2016, Teleconference**

## **LUNCH BREAK**

### **CLOSED SESSION<sup>1</sup> - Board Room**

Chair Tewfik, Carmody, Cheney, Clark, Cortese, Romanco, Schoenfelder, Ulveling, Wadle

### **OPEN SESSION - Board Room**

Chair Tewfik, Carmody, Cheney, Clark, Cortese, Romanco, Schoenfelder, Ulveling, Wadle

2:30 p.m.

### **OPEN SESSION/PUBLIC MEETING<sup>3,5</sup> - Board Room**

Chair Tewfik, Carmody, Cheney, Clark, Cortese, Romanco, Schoenfelder, Ulveling, Wadle

#### **A. Roll-call to establish quorum; acknowledge absent Board members**

#### **B. Opportunity for public comments<sup>5</sup>** *(Public can make comments now or when specific agenda items are addressed.)*

#### **C. Board Minutes for Consideration of Approval**

1. December 10-11, 2015, open & closed sessions
2. January 14, 2016, open & closed sessions

#### **D. Chair's Report**

#### **E. Executive Director's Report**

#### **F. Administrative Rules**

1. **For Information Only - Relinquishment of license, ARC2346C, becomes effective February 10, 2016.** This is an amendment to 653 IAC Chapter 9, "Permanent Physician Licensure," to implement 2015 Iowa Acts, Senate File 276, which declares that a person's permanent license to practice medicine or administrative medicine shall be deemed relinquished if the person fails to apply for renewal or reinstatement of the license within five years after its expiration.
2. **For Information Only - Administrative Medicine License, ARC2359C.** This is an amendment to 653 IAC Chapters 9 and 11, to implement 2015 Iowa Acts, Senate File 276, which creates a license for the administrative, non-clinical practice of medicine. A public hearing was held on January 26 and ARC2359C will be considered by the Administrative Rules Review Committee on February 5. The Board will consider this rulemaking for adoption at the teleconference on March 3.

3. **For Information Only - General updates in medical licensure rules, ARC2360C.** This amendment to 653 IAC Chapter 9 is a result of the Board's continuing review of its administrative rules. A public hearing was held January 26 and ARC2360C will be considered by the Administrative Rules Review Committee on February 5. The Board will consider this rulemaking for adoption at the teleconference on March 3.
4. **For Information Only - Epinephrine prescribing standards, ARC 2249C, becomes effective March 9, 2016** This is an amendment to 653 IAC Chapter 13, "Standards of Practice and Principles of Medical Ethics," to implement 2015 Iowa Acts, Senate File 462, which allows physicians to write prescriptions for authorized facilities to stock an epinephrine auto-injector supply for administration by trained non-health care personnel to individuals at risk of anaphylaxis.
5. **For Information Only - Notice of Intended Action - General updates in acupuncture rules.** This is an amendment to 653 IAC Chapter 17, "Licensure of Acupuncturists," to update the rule throughout. On January 14, the Board voted to notice this rulemaking. The Notice of Intended Action is under review by the Governor's office.

**G. Report on joint rulemaking by the Boards of Medicine and Physician Assistants to establish minimum standards for appropriate supervision of physician assistants.**

1. **ARC2372C.** This rulemaking was noticed by the Board of Medicine on December 10, 2015, and will be considered by the Administrative Rules Review Committee on February 5. The Board will hold a public hearing on the rule on February 12.
2. The Board of Physician Assistants on January 20, 2016, voted to notice a rule identical to ARC2372C. This rulemaking is scheduled to be published in the Administrative Bulletin on February 17 and a public hearing will be held on March 9.
3. Legislation:
  - **HF2041** - Gives the Board of Medicine sole authority to write supervisory rules
  - **HF2105** - Eliminates the Board of Physician Assistants and puts PAs under licensure and regulation by the Board of Medicine

**H. Board of Physical & Occupational Therapy's ruling on a petition for a declaratory order on dry needling.**

**I. 2016 Legislative Update**

**J. Interstate Medical Licensure Compact Update**

**K. Judicial Review/Legal Update (Jordan Esbrook)**

1. **Smoker v. BOM, No. 14-1259** – Appeals Court affirms Board's motion to dismiss claims for drug-screening expenses. Smoker filed an application for further review with

the Supreme Court on 7/14. Filed a resistance on behalf of the Board on 7/24. The Supreme Court declined to take the case for further review. Appeal concluded.

2. **Butt v. BOM, No. 15-1201** – District Court upholds Board’s decision to suspend physician’s license. Appealed to Supreme Court. Briefing completed. Case will be decided without oral argument.
3. **Butt v. BOM, No. 14-1764** – Oral argument held and decision issued. Appeals Court affirmed the discipline. Court struck a paragraph of language concluding it was a new factual finding and ordered an NPDB change. Case is now concluded.
4. **Rabi v. BOM (challenging contested case decision)** – Brief has been filed on Board’s behalf asking the court to affirm the Board’s decision. Awaiting decision. Case is continued pending resolution of request for reinstatement at board level.
5. **Rabi v. BOM (challenging decision not to redact witness names)** – District Court on 12/01 dismissed Rabi’s petition challenging Board’s denial of his request to redact the names of his witnesses in the 02/19 board order. No appeal was filed. Appeal concluded.
6. **Rabi v. BOM (challenge to decision reinstating license)** – Newly filed appeal. A motion to dismiss was filed on behalf of Board on 1/28.
7. **Risk v. BOM – (challenging Board’s denial of his request for rehearing)** Answer filed. Risk filed his brief on 11/24. Board’s brief was due 12/9. District Court affirmed the Board’s decision and instructed Risk to go to the Board through normal process to ask that restriction is lifted. Risk filed an appeal with Supreme Court. Awaiting briefing schedule.
8. **Fleming v. BOM, No. 14-0975** – Appendix filed. Final briefs filed. Awaiting decision.

#### **L. Contested case hearings**

1. Training for Board members (Kent Nebel)

#### **M. Federation of State Medical Boards**

1. 104th annual meeting is April 28-30, San Diego, CA
2. Deadline for resolutions is February 26.
3. Anti-trust legislation meeting is March 8, Dallas, TX

#### **N. Iowa Physician Health Committee/Program**

1. Program update (Amy Van Maanen)
2. YTD and year-end statistics

#### **O. Reports & Articles**

1. *CDC calls on doctors to reduce opioid use*, Lenny Bernstein, Washington Post, December 15, 2015.
2. *Most medical school graduates continue to find placements*, Janis C. Kelly, Medscape, December 24, 2015.
3. *Physicians less likely to die in hospital than other patients*, Diana Phillips, Medscape, January 20, 2016.

4. *U.S. family doctors plan to provide more varied care in future*, Lisa Rapaport, Reuters Health News, December 8, 2015.
5. *Would paying your doctor cash up front get you better care?*, Shefali Luthra, National Public Radio-Kaiser Health News, January 13, 2016.

**P. Committee Reports**

1. Monitoring
2. Licensure
3. Screening

**CLOSED SESSION<sup>1</sup> - Board Room**

Chair Tewfik, Carmody, Cheney, Clark, Cortese, Romanco, Schoenfelder, Ulveling, Wadle

**OPEN SESSION - Board Room**

Chair Tewfik, Carmody, Cheney, Clark, Cortese, Romanco, Schoenfelder, Ulveling, Wadle

**A. Unlicensed Practice of Medicine Cases**

**B. Vote on Closed Session Cases**

**FRIDAY, FEBRUARY 5, 2016**

8:00 a.m.

**OPEN SESSION - Board Room**

Chair Tewfik, Carmody, Cheney, Clark, Cortese, Romanco, Schoenfelder, Ulveling, Wadle

**CLOSED SESSION<sup>1</sup> - Board Room**

Chair Tewfik, Carmody, Cheney, Clark, Cortese, Romanco, Schoenfelder, Ulveling, Wadle

**LUNCH BREAK**

**CLOSED SESSION<sup>1</sup> - Board Room**

Chair Tewfik, Carmody, Cheney, Clark, Cortese, Romanco, Schoenfelder, Ulveling, Wadle

**OPEN SESSION - Board Room**

Chair Tewfik, Carmody, Cheney, Clark, Cortese, Romanco, Schoenfelder, Ulveling, Wadle

**A. Vote on Closed Session Cases**

## **ADJOURN**

If there is no further business to conduct, the chairperson will declare the meeting adjourned.

*(1) The confidential matters listed on the agenda may concern medical records on the condition, diagnosis, care or treatment of a patient or investigation reports and other investigative information which are privileged and confidential under the provisions of Sections 22.7(2) and 272C.6(4), of the 2015 Code of Iowa. These matters constitute a sufficient basis for the Board to consider a closed session under the provisions of Section 21.5(1)(a), (c), (d), (f) and (g) of the 2015 Code of Iowa. These sections provide that a governmental body may hold a closed session only by affirmative public vote of either two-thirds of the members of the body if all present, or all of the members present if not all members are present at the meeting to review or discuss records which are required or authorized by state or federal law to be kept confidential, to discuss whether to initiate licensee disciplinary investigations or proceedings and to discuss the decision to be rendered in a contested case conducted according to the provisions of Chapter 17A.*

*(2) Hearings may be closed at the discretion of the licensee, according to Section 272C.6(1) of the Code of Iowa 2015.*

*(3) Public agenda materials are available via e-mail. Contact: [ibm@iowa.gov](mailto:ibm@iowa.gov)*

*(4) The Iowa Board of Medicine may address agenda items out of sequence to accommodate persons appearing before the Board or to aid in the efficiency or effectiveness of the meeting.*

*(5) At this time, members of the audience may address the Board for a period not to exceed 5 minutes. The Board reserves the right to reduce this time based on the number wishing to speak. If a member of the public wishes to address the Board with the intention of getting a Board decision at the meeting, the individual should request permission to be on the Board agenda. Written requests are due in the Board office at least 14 days in advance of the meeting.*

### **The next scheduled Board meetings:**

- **Thursday, March 3, 2016 (teleconference)**
- **Thursday and Friday, April 7-8, 2016 (in-person meeting at the office)**

*If you require the assistance of auxiliary aids or services to participate in/or attend the meeting because of a disability, please call our ADA Coordinator at (515) 281-5604. If you are hearing impaired, call Relay IA TTY at 1-800-735-2942.*